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Attorneys for Plaintiff
UNITED STATES OF AMERICA

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,) CRIM. CASE NO. 08CR1447-BEN

Plaintiff,

DATE: June 23, 2008
TIME: 2:00 p.m.

v.

STATEMENT OF FACTS AND MEMORANDUM
OF POINTS AND AUTHORITIES IN SUPPORT OF
GOVERNMENT'S MOTIONS FOR RECIPROCAL
DISCOVERY AND TO COMPEL FINGERPRINT
EXEMPLARS

SALVADOR MANUEL
GALLARDO-VALLECILLO,

Defendant.

COMES NOW, the plaintiff, UNITED STATES OF AMERICA, by and through its counsel,
Karen P. Hewitt, United States Attorney, and Luella M. Caldito, Assistant United States Attorney,
hereby files the attached statement of facts and memorandum of points and authorities in support of
Government's motion for reciprocal discovery and fingerprint exemplars.

I

STATEMENT OF THE CASE

On May 7, 2008, a federal grand jury in the Southern District of California returned an
Indictment charging Salvador Manuel Gallardo-Vallecillo ("Defendant") with Deported Alien Found
In the United States, in violation of Title 8, United States Code, Section 1326(a) and (b). The

1 Indictment further alleges that Defendant had been removed from the United States subsequent to
2 April 30, 1998.

3 **II**

4 **STATEMENT OF FACTS**

5 **A. THE INSTANT OFFENSE**

6 On April 11, 2008, at approximately 4:30 p.m., Supervisory Border Patrol Jaime Jong
7 responded to a seismic sensor activation in an area known as "Emu Farm." Emu Farm is located
8 approximately seven miles east and one mile north of the Tecate, California Port of Entry. When
9 Agent Jong responded to the area, he observed foot sign heading north towards Highway 94. Agent
10 Jong followed the foot sign for approximately five minutes before he encountered five subjects hiding
11 in the brush.

12 Agent Jong conducted a field immigration interview of all five individuals. All individuals,
13 including Defendant, admitted that they were citizens of Mexico without valid immigration documents
14 that would allow them to legally enter or remain in the United States. Defendant was arrested and
15 transported to the Tecate Processing Center.

16 Defendant's fingerprints were entered into record checks systems, which revealed Defendant's
17 immigration and criminal history. At approximately 7:45 p.m., Defendant was advised of his Miranda
18 rights which he acknowledged and waived. Thereafter, Defendant stated that he illegally entered the
19 United States on April 11, 2008 by jumping the international border fence. Defendant admitted that
20 he entered the United States to seek employment. Lastly, Defendant admitted that he did not have any
21 immigration documents.

22 **B. DEFENDANT'S IMMIGRATION HISTORY**

23 Defendant is a citizen of Mexico who was ordered deported on April 8, 2008. Defendant was
24 physically removed from the United States, that same day, via the San Ysidro Port of Entry.

25 **C. DEFENDANT'S CRIMINAL HISTORY**

26 On April 30, 1998, Defendant was convicted of carjacking, second degree robbery and assault
27 with a deadly weapon. Defendant was sentenced to 12 years' imprisonment for the above convictions.
28

1 III

2 **GOVERNMENT'S MOTIONS**

3 **A. MOTION FOR RECIPROCAL DISCOVERY**

4 **1. RULE 16(b)**

5 The United States, pursuant to Rule 16 of the Federal Rules of Criminal Procedure, requests
6 that Defendant permit the United States to inspect, copy, and photograph any and all books, papers,
7 documents, photographs, tangible objects, or make copies of portions thereof, which are within the
8 possession, custody or control of Defendant and which Defendant intends to introduce as evidence in
9 his case-in-chief at trial.

10 The United States further requests that it be permitted to inspect and copy or photograph any
11 results or reports of physical or mental examinations and of scientific tests or experiments made in
12 connection with this case, which are in the possession or control of Defendant, which Defendant
13 intends to introduce as evidence-in-chief at the trial, or which were prepared by a witness whom
14 Defendant intends to call as a witness. Because the United States will comply with a defense request
15 for delivery of reports of examinations, the United States is entitled to the items listed above under
16 Rule 16(b)(1) of the Federal Rules of Criminal Procedure. The United States also requests that the
17 Court make such order as it deems necessary under Rules 16(d)(1) and (2) to ensure that the United
18 States receives the discovery to which it is entitled.

19 **2. RULE 26.2**

20 Rule 26.2 of the Federal Rules of Criminal Procedure requires the production of prior
21 statements of all witnesses, except a statement made by Defendant. This rule thus provides for the
22 reciprocal production of Jencks statements.

23 The time frame established by the rule requires the statement to be provided after the witness
24 has testified. To expedite trial proceedings, the United States hereby requests that Defendant be
25 ordered to supply all prior statements of defense witnesses by a reasonable date before trial to be set
26 by the Court. Such an order should include any form in which these statements are memorialized,
27 including but not limited to, tape recordings, handwritten or typed notes and/or reports.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

SALVADOR MANUEL
GALLARDO-VALLECILLO,

Defendant.

Case No. 08CR1147-BEN

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED THAT:

I, LUELLA M. CALDITO, am a citizen of the United States and am at least eighteen years of age. My business address is 880 Front Street, Room 6293, San Diego, California 92101-8893.

I am not a party to the above-entitled action. I have caused service of GOVERNMENT'S NOTICE OF MOTIONS AND MOTIONS FOR RECIPROCAL DISCOVERY AND TO COMPEL FINGERPRINT EXEMPLARS on the following parties by electronically filing the foregoing with the Clerk of the District Court using its ECF System, which electronically notifies them.

1. Robert Henssler, Federal Defenders of San Diego, Inc.

I hereby certify that I have caused to be mailed the foregoing, by the United States Postal Service, to the following non-ECF participants on this case:

None

the last known address, at which place there is delivery service of mail from the United States Postal Service.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 9, 2008.

/s/ Luella M. Caldito
LUELLA M. CALDITO